



Ninety-Seventh Legislature - Second Session - 2002
Committee Statement
LB 847

Hearing Date: 2/23/01
Committee On: Judiciary

Introducer(s): (Brashear, Beutler, Bromm, Smith)
Title: Change provisions for victim's rights

Roll Call Vote – Final Committee Action:

Advanced to General File
X Advanced to General File with Amendments
Indefinitely Postponed

Vote Results:

| | | |
|---|---------------------|---|
| 5 | Yes | Senators Baker, Brashear, Connealy, Pedersen, Robak |
| 1 | No | Senator Chambers |
| 2 | Present, not voting | Senators Quandahl, Tyson |
| | Absent | |

Proponents:

Senator Kermit Brashear
Paula Hutchinson
Donald Marsh

Representing:

Introducer
Self
Self

Opponents:

Representing:

Neutral:

Representing:

Summary of purpose and/or changes:

Legislative Bill 847 changes and adds various provisions relating to victim's rights:

The intent of the Legislature is that the Nebraska Crime Victim's Reparations Act and sections of this bill enable rights of victims as set forth in the Constitution of Nebraska, Article I, section 28.

The definition of a homicide victim is amended to mean the nearest surviving relative under Nebraska's law of intestacy, i.e. a surviving spouse, then children, parents, siblings, grandparents, and so forth.

The Nebraska Commission on Law Enforcement and Criminal Justice shall create a pamphlet summarizing victim's rights. The county attorney shall give such pamphlet to victims.

Victim's rights added to current statutes include the right to:

- be present throughout the entire trial process;
- be notified of scheduled court proceedings, of final disposition, and of crimes for which the defendant was convicted;
- make an oral or written impact statement for a pre-sentence investigation report prepared by the probation office;
- make an oral or written impact statement at sentencing;
- be notified of, to testify at, or to submit a written statement for any pardon, commutation, or conditional release proceedings, and to be notified of any decision made by such;
- submit a oral or written statement for consideration to the parole board.

When an appeal is filed, the Attorney General shall notify the victim of his or her rights, including the defendant's filing of an appeal, an explanation of the appeal process, whether the defendant is released on bail, the time and place of proceedings, the result of the appeal, and the final disposition.

The Department of Correctional Services or the county corrections agency shall mail to the victim information about a prisoner who has been sentenced to imprisonment under such agency for the commission of the crime against the victim.

If a prisoner confined and accused of, convicted of, or sentenced for committing a crime against a victim escapes, such victim and prosecuting attorney shall be notified immediately.

A victim's rights may be waived by such victim at any time by written consent in person or filed with the clerk by an attorney, or by oral consent in open court.

Finally, the bill provides an avenue for victims to pursue a civil action to seek an injunction to enforce such rights.

Explanation of amendments, if any:

The Committee Amendment clarifies language and provisions regarding victim's rights.

Currently under § 81-1850, the county attorney of the jurisdiction in which a person is convicted of a felony is to forward the name and address of any victim of the convicted to the Board of Parole. The statute continues to refer to Health and Human Services and the Department of Corrections in describing what is required of such agencies with regard to victims. Such statute is amended by the Committee Amendment to specify that such county

attorney is to forward the name and address of the victim to the Department of Corrections and Health and Human Services as well.

Under the section of the bill requiring the county attorney to give actual notice to the victims of the specifics of the relevant case, the Committee Amendment adds to the list of specifics: the crimes the defendant is charged with, the amount of the defendant's bond, and the right to be notified if there is a plea offer.

The bill requires that upon filing of an appeal by the defendant, the Attorney General shall notify the victim of specified rights. The Committee Amendment adds that the county attorney upon whom notice of such appeal was served shall notify the Attorney General of the name and last known address of the victim of such case.

The remaining sections of the Committee Amendment are technical in nature and renumber various provisions.

Senator Kermit A. Brashear, Chairperson